

राजिस्ट्र नं० पी० 461.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बंगलवार, 14 सितम्बर, 1971/23 भाद्रपद, 1893

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT NOTIFICATIONS

Simla-4, the 7th September, 1971

No. 1-10/70-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Redemption of Mortgages (Himachal Pradesh) Bill, 1971 (Bill No. 11 of

1971) introduced in the Himachal Pradesh Legislative Assembly on the 6th September, 1971, is hereby published in the Himachal Pradesh Government Gazette.

R. C. SHARMA,
Under Secretary.

Bill No. 11 of 1971

**THE REDEMPTION OF MORTGAGES, (HIMACHAL PRADESH)
BILL, 1971**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide a summary procedure for the redemption of certain mortgages of land in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Redemption of Mortgages (Himachal Pradesh) Act, 1971.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

(4) It shall apply only to mortgages of land:—

(a) in which, whatever the mortgage money, the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith, does not exceed in area of 50 acres; or

(b) in which, whatever the area, the principal money secured under the mortgage does not exceed 5,000 rupees.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) the expression “land” means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or purposes subservient to agriculture or for pasture, and includes—

(a) the sites of buildings and other structures on such land;

(b) a share in the profits of an estate or holding;

(c) any dues or any fixed percentage of the land revenue payable to landowner;

(d) a right to receive rent;

(e) any right to water enjoyed by the owner, or the occupier of land as such; and

(f) any right of occupancy;

(2) the expression “Collector” shall mean the Collector of the District in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1st grade;

(3) “prescribed” shall mean prescribed by rules made under this Act.

3. Subject to the provisions of this Act and the rules thereunder, the provisions of sections 79, 85, 86, 87, 89, 90, 91, 92 and 101 of the Punjab Tenancy Act, 1887, as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and sections 113, 119, 120, 121, 123, 124, 125, 126 and 135 of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, shall, so far as may be, apply to all proceedings of a Collector under this Act in the respective areas.

Short title, extent, commencement and limitation of scope of Act to certain mortgages.

Definitions.

Application of certain sections of the Punjab Tenancy Act, 1887 and the Himachal Pradesh Act No. 15 of 1954.

16 of 1887
31 of 1966

15 of 1954

Petition for redemption, verification, deposit and particulars to be contained in petition.

4. The mortgagor or other person entitled to institute a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed, and where the mortgage is with possession that he be put in possession of the mortgaged property. The petition shall be duly verified in the manner prescribed by law for the verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage. The petitioner shall at the same time deposit such sum with the Collector.

The petitioner shall state in his petition such particulars and file therewith such documents as may be prescribed.

Mortgagee to be summoned.

5. When the petition has been duly presented and the deposit has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified. Every summons shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon.

Procedure when petitioner is absent and mortgagee present.

6. Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, make an order that the petition be dismissed, unless the mortgagee admits the claim, in which case the Collector shall make an order—

- (a) that the mortgage be redeemed;
- (b) that where the mortgage is with possession the mortgagor be put in possession of the mortgaged property as against the mortgagee;
- (c) that the mortgagee deposits with the Collector the mortgage-deed, if any, if then in his possession or power, and that it be delivered to the petitioner;
- (d) that subject to the mortgage-deed, if any, being so deposited by the mortgagee the sum in deposit be paid to him:

Provided that no such order shall be made inconsistent with any condition of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession.

Procedure when petitioner is present and mortgagee absent.

7. When the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, inquire in a summary manner (a) whether the petitioner is entitled to redeem the mortgaged property, and (b) whether the sum deposited by the petitioner is the sum rightly due under the mortgage.

If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition.

If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the Collector is satisfied that petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order in manner aforesaid.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

8. Where both parties appear when the petition is called on for hearing, the Collector shall inquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt, and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property.

Procedure when both parties are in attendance, order for redemption.

If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the mortgagee admits the petitioner's title to redeem, but demands payment of a sum larger than that in deposit, the Collector shall inquire from the petitioner whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest upto the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

9. If the mortgagee raises objection on any ground other than the amount of the deposit, or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either (a) for reasons to be recorded dismiss the petition, or (b) make a summary inquiry regarding the objection raised by the mortgagee or regarding the sum due.

Procedure in contentious cases.

10. If on inquiry regarding any objection so raised by the mortgagee the Collector is of opinion that it bars redemption or is a sufficient cause for not proceeding further with the petition, he shall dismiss the petition; but if he is not of that opinion, he shall, unless he dismisses the petition under section 11, make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

Inquiry into objection raised by mortgagee.

11. If on inquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under section 10, make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposited by the petitioner, he shall, unless he dismisses the petition under section 10, fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest upto the date of the deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

Inquiry regarding sum due.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

12. Any party aggrieved by an order made under sections 6, 7, 8, 9, 10 or 11 of this Act may institute a suit to establish his rights in respect of the mortgage, but, subject to the result of such suit, if any, the order shall be conclusive.

Saving of suits to establish rights and setting aside ex-parte orders or orders of dismissal.

Notwithstanding anything in this section a mortgagee against whom an *ex-parte* order under section 7 has been made or a petitioner whose petition has been dismissed in default under section 6 may apply to the Collector to have such order or dismissal set aside, and the Collector may in his discretion

set aside, such order or dismissal on such terms as to costs or otherwise as he may deem fit:

Provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party.

No second petition.

13. The dismissal of a petition under this Act shall bar any further petition under this Act by the same petitioner or his representative in respect of the same mortgage.

Return of deposit.

14. If the Collector dismisses a petition under this Act, he shall order that the sum deposited by the petitioner be returned to him.

Deposit not to be attached.

15. No sum deposited with the Collector by a petitioner under the provisions of this Act shall be attached by any Court or Revenue Officer.

Cessation of interest.

16. When the petitioner has deposited with the Collector the sum declared by him to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit.

Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit:

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money:

Provided further that where a suit is instituted under section 12, the court may pass such order as to interest as it deems fit.

Power to make rules.

17. (1) The State Government may, by notification in the Rajpatra, Himachal Pradesh, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

18. The Redemption of Mortgages (Punjab) Act, 1913 as applied to Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 and the Redemption of Mortgages (Punjab) Act, 1913 in its application to the areas added to Himachal Pradesh by section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

2 of 1913

2 of 1913

31 of 1966

Provided that anything done or any action taken or rules made or notification issued in exercise of the powers conferred by or under the provisions of the Acts so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, rules made or notification issued.

STATEMENT OF OBJECTS AND REASONS

The Redemption of Mortgages (Punjab) Act, 1913 is applicable to the old areas of Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 and the Redemption of Mortgages (Punjab) Act, 1913 is applicable to the areas added to Himachal Pradesh by section 5 of the Punjab Re-organisation Act, 1966. In the old areas, the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, is in force whereas in the transferred areas the Punjab Tenancy Act, 1887, is in force. Section 3 of the Act, particularly, required change. With a view to bringing about uniformity it is necessary to have a unified law on the subject for the entire Himachal Pradesh. It is also necessary to provide a summary procedure for the redemption of certain mortgages of land. This Bill seeks to achieve the aforesaid objects.

SIMLA:
The 6th September, 1971.

LAL CHAND PRARTHI,
Revenue Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Clause 17 empowers the State Government to make rules for carrying out the purposes of this Act. These rules shall as soon as may be after they are made be laid before the Legislative Assembly. This delegation is normal in character.

Simla-4, the 7th September, 1971

No. 1-33/71-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Bill, 1971 (Bill No. 12 of 1971) introduced in the Himachal Pradesh Legislative Assembly on the 6th September, 1971 is hereby published in the Himachal Pradesh Government Gazette.

THE HIMACHAL PRADESH HOLDINGS (CONSOLIDATION AND PREVENTION OF FRAGMENTATION) BILL, 1971
(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to provide for the consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in the State of Himachal Pradesh and for the assignment or reservation of land for common purposes of the village.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) This section shall come into force at once and the remaining provisions of the Act shall come into force in such areas and from such date as the State Government may by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for the coming into force of different provisions of the Act for different parts of the State.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) 'Assistant Consolidation Officer' means an officer appointed by the State Government to perform the duties of the Assistant Consolidation Officer under this Act;

(2) 'common purpose' means any purpose in relation to any common need, convenience or benefit of the village and include the following purposes:—

(i) extension of the village *abadi*;

(ii) providing income for the Panchayat of the village concerned for the benefit of the village community;

(iii) village roads and paths, village drains, village wells, ponds or tanks, village water-courses or water-channels, village bus stands and waiting places, manure pits, hada rori, public latrines, cremation and burial grounds, *Panchayat ghar*, *janj ghar*, grazing grounds, tanning places, *mela* grounds, public places of religious or charitable nature; and

(iv) schools and playgrounds, dispensaries, hospitals, and institutions of like nature, waterworks or tube wells, whether such schools/ playgrounds, dispensaries, hospitals, institutions, waterworks or tube wells, may be managed and controlled by the State Government or not;

(3) 'consolidation' means the re-distribution of all or any of the lands in any area between the several tenure holders entitled thereto in such a way as would make the areas for the time being held as such more compact;

(4) 'Consolidation Officer' means an officer appointed by the State Government under section 51 to perform the duties of a Consolidation Officer under this Act;

(5) 'Director of Consolidation' means an officer appointed by the State Government under section 51 to perform the duties and

Short title,
extent and
commence-
ment.

Definitions.

- exercise the functions of a Director of Consolidation under this Act;
- (6) 'Official Gazette' means the Rajpatra, Himachal Pradesh;
- (7) 'land' means the land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—
- (a) the sites of buildings and other structures on such land;
- (b) orchards; and
- (c) *ghasnis*;
- (8) 'legal representative' has the meaning assigned to it in the Code of Civil Procedure, 1908; 5 of 1908.
- (9) 'prescribed' means prescribed by rules made under this Act;
- (10) 'Settlement Officer (Consolidation)' means an officer appointed by the State Government under section 51 to perform the duties of a Settlement Officer (Consolidation) under this Act and includes any person authorised by the State Government to perform all or any of the functions of the Settlement Officer (Consolidation) under this Act;
- (11) 'State Government' means the Government of Himachal Pradesh;
- (12) 'sub-division' means a part of an estate recorded as a sub-division, *patti* or *taraf* in a record-of-rights as prepared under the Himachal Pradesh Land Revenue Act, 1954, as applicable to the areas which formed part of Himachal Pradesh immediately before the 1st day of November, 1966 provided it forms a compact block and in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 'sub-division' means a part of an estate recorded as a sub-division, *patti*, *taraf* or *pana* in a record-of-rights prepared under the Punjab Land Revenue Act, 1887 provided it forms a compact block; 6 of 1954. 31 of 1966 17 of 1887.
- (13) 'tenure holder' means a landowner or a tenant of the land concerned;
- (14) 'fragment' means a plot of land of less extent than the appropriate standard area determined under this Act:
- Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;
- (15) 'notified area' means any area notified as such under section 3;
- (16) 'owner' means, in the case of unalienated land, the lawful occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land, owner means the superior holder;
- (17) 'standard area' in respect of any class of land means the area which the State Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular notified area and includes a standard area revised under the said section;
- (18) words and expressions—
- (a) not defined in this Act but defined in the Himachal Pradesh Land Revenue Act, 1954, or 6 of 1954
- (b) not defined in this Act or in the Himachal Pradesh Land Revenue Act, 1954, but defined in the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, shall have the meaning assigned to them in the Act in which they are so defined. 6 of 1954 15 of 1954

CHAPTER II

DETERMINATION OF STANDARD AREAS AND TREATMENT OF FRAGMENTS

3. The State Government may, after such inquiry as it deems fit, specify any estate or sub-division of an estate as notified area for the purposes of this chapter of this Act.

Determina-
tion of noti-
fied area.

4. (1) The State Government may, after such inquiry as it deems fit, provisionally settle for any class of land in any notified area the minimum area that can be cultivated profitably as a separate plot.

Settlement
of standard.

(2) The State Government shall by notification and in such other manner as may be prescribed, publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

5. (1) The State Government shall after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the estate concerned and making such further inquiry as it may deem fit, determine the standard area for such class of land in such notified area.

Determina-
tion and
revision of
standard
areas.

(2) The State Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in section 4 and sub-section (1) of section 5.

(3) The State Government shall, by notification and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

6. (1) On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the record-of-rights.

Entry in the
record-of-
rights.

(2) Notice of every entry made under sub-section (1) shall be given in the prescribed manner.

7. (1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

Transfer
and lease of
fragments.

(2) Notwithstanding anything contained in any law for the time being in force no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

8. No land in any notified area shall be transferred or partitioned so as to create a fragment.

Fragmenta-
tion prohi-
bited.

9. The transfer or partition of any land contrary to the provisions of this Act shall be void.

Penalty for
transfer or
partition
contrary to
provisions
of Act.

10. Any owner of a fragment who intends to sell it shall make an application in this behalf to the Collector for determination of its market price and the Collector shall, after hearing the applicant and the owners of the contiguous survey numbers or recognised sub-divisions of survey numbers, determine the market price, and such determination shall be final and conclusive for the purposes of this chapter.

Valuation
of frag-
ment.

11. The owner referred to in the preceding section shall in the first instance offer the fragment for sale to the owners of contiguous survey

Transfer of
fragment.

numbers or recognised sub-divisions of survey numbers, and in case of their refusal to purchase for the price as determined under the last preceding section, may transfer it to the State Government for the purpose of the State on payment by the State Government of such price as aforesaid to persons possessing interest therein as the Collector may determine, and thereupon the fragment shall vest absolutely in the State Government for the purpose of the State free from all encumbrances.

Partition of estate assessed to payment of revenue to Government or separation of share thereof.

12. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the State Government in any notified area for which standard areas have been fixed, for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment.

5 of 1908

State Government or Local authority not to acquire land so as to leave fragment.

13. (1) Notwithstanding anything contained in any law for the time being in force, no land shall be acquired by the State Government or any local authority or sold at any sale held under the orders of any court so as to leave a fragment.

(2) If any land acquired by the State Government or any local authority is in excess of its requirements, it shall be offered for sale in the first instance to the owners of contiguous survey numbers or recognised sub-divisions of survey numbers at the price at which it was acquired under sub-section (1).

CHAPTER III

REVISION AND CORRECTION OF MAPS AND RECORDS AND CONSOLIDATION OF HOLDINGS

Declaration regarding consolidation.

14. (1) The State Government may declare that in the interests of the general public and for the purposes of better cultivation of land it has decided to make a scheme of consolidation for any estate or a group of estates or a sub-division of an estate.

(2) Every such declaration shall be published in the Official Gazette and in the estate or estates concerned in the prescribed manner.

Effect of declaration.

15. (1) On the publication of the declaration under section 14, an estate, group of estates or a sub-division of an estate, as the case may be, shall be deemed to be under consolidation operations from the date of such publication until the publication of the notification that the consolidation operations have been closed.

(2) Where an estate, group of estates or a sub-division of an estate is under consolidation operations, the duty of maintaining the maps, field book and preparing the annual record under the Himachal Pradesh Land Revenue Act, 1954, as applicable to the areas which formed part of the Himachal Pradesh immediately before the 1st day of November 1966, and the Punjab Land Revenue Act, 1887, as applicable in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, and the rules framed thereunder, shall stand transferred to the Settlement Officer (Consolidation), and thereupon all the powers conferred on the Collector and Assistant Collector, under the said Acts and rules, shall, so long as an estate, group of estates or a sub-division of an estate remains under consolidation operations, be exercised by the following officers:—

6 of 1954.

17 of 1887

31 of 1966.

1. The Director of Consolidation of Holdings.

2. Settlement Officer (Consolidation).

3. Consolidation Officer.

4. Assistant Consolidation Officer.

(3) The State Government may by notification confer on any officer mentioned in sub-section (2) the powers of Collector, all or any of the powers with which an Assistant Collector, may be invested under the Himachal Pradesh Land Revenue Act, 1954 or the Punjab Land Revenue Act, 1887, as the case may be.

16. (1) The State Government may at any time cancel the declaration made under section 14 in respect of the whole or any part of the area specified therein.

Cancellation of declaration under section 14.

(2) Where a declaration has been cancelled in respect of any area under sub-section (1), such area shall, with effect from the date of cancellation cease to be under consolidation operations.

17. (1) Where on an examination of the village map, field-book and the record-of-rights, the Consolidation Officer or the Assistant Consolidation Officer is of the opinion that a revision of maps or records is necessary before proceeding further with the preparation of provisional consolidation scheme, he shall recommend to the State Government accordingly.

Revision and correction of records.

(2) Where he is of the opinion that a revision of maps and records is not necessary, he shall proceed to carry out in the manner prescribed a field to field *partial* with the help of the village map and field book and shall correct the entries in the revenue records in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954, or the Punjab Land Revenue Act, 1887, as the case may be, and the rules framed thereunder.

18. The records prepared or corrected under sub-section (2) of section 17 shall be published in the village in the prescribed manner and a copy shall be sent to the Collector.

Publication of correct records.

19. On receipt of the recommendations under sub-section (1) of section 17, the State Government shall publish a notification to that effect and thereupon a revised map and a field book and the records-of-rights shall be prepared for the village or villages concerned in accordance with the provisions of the Himachal Pradesh Land Revenue Act, 1954, or the Punjab Land Revenue Act, 1887, as the case may be and rules framed thereunder, as if a notification had been issued in respect thereof under the said Acts and rules.

Declaration regarding revision of records.

20. (1) The Assistant Consolidation Officer, as soon as may be after the publication of the records under section 18 or preparation of records under section 19 prepare—

Preparation of statement of plots and tenure holders.

(a) a list of all plots comprised in the holdings of each tenure holder, showing—

- (i) the area of each plot;
- (ii) the soil classes of the plots according to the last settlement;
- (iii) the hereditary rent rates sanctioned for the soil classes at the last settlement or revision operations, whichever is the latest;
- (iv) the rental value of the plot;
- (v) the revenue or the rent, as the case may be, of the plot calculated in the manner prescribed;
- (vi) such other particulars as may be prescribed;

6 of 1954
17 of 1887

6 of 1954
7 of 1887

6 of 1954
17 of 1887

- (b) a list of each tenure holder, showing—
 - (i) total area held by the tenure holder in all classes of tenures;
 - (ii) the revenue or the rent, as the case may be, for his share;
 - (iii) the rental value of the area held by the tenure holder; and
 - (iv) such other particulars as may be prescribed.

(2) The statement shall be published in the village in the prescribed manner.

Objection
on the state-
ment.

21. (1) Any person may within thirty days of the publication of the statement prepared under section 20 file before the Assistant Consolidation Officer an objection disputing the correctness or nature of any entry in the statement or pointing out any omission therefrom.

(2) The Assistant Consolidation Officer shall, after hearing the parties, if necessary, on the objections filed under sub-section (1) submit his report on those objections to the Consolidation Officer who shall except as provided in sub-section (4) dispose of the objections in the manner prescribed.

(3) The decision of the Consolidation Officer shall, except as otherwise provided by or under this Act, be final.

(4) Where the objection filed under sub-section (1) involves a question of title and such question has not already been determined by a competent court, the Consolidation Officer, shall refer the question for determination to the Arbitrator whose decision shall be final.

Consolida-
tion Scheme.

22. (1) The Consolidation Officer shall, after publication of the statement under sub-section (2) of section 20 and decision of objections, if any, under section 21 obtain in prescribed manner the advice of the landowners and tenants of the estate or estates concerned and thereafter prepare a scheme for the consolidation of holdings in such estate or estates or part thereof, as the case may be.

(2) In preparation of the scheme under sub-section (1), the Consolidation Officer shall have regard to the following principles, namely—

- (a) the land in each village may be divided and grouped under the following blocks, namely:—
 - (i) block of land producing rice only;
 - (ii) block of land producing mainly *Ekfasli* crops, other than rice;
 - (iii) block of land which is mainly *Dofasli*;
 - (iv) block of land subject to fluvial action of any river; and
 - (v) classification and valuation of land for the purpose of consolidation and the exchange ratio for conversion of one class into other;
- (b) every tenure-holder is, as far as may be, allotted land in the block in which he holds the largest part of the holdings;
- (c) only those tenure-holders shall get land in any particular block who already hold land therein;
- (d) the number of *chaks* to be allotted to each tenure-holder excluding areas earmarked for *abadi* and shall not exceed the number of blocks unless there is only one block and the land is more or less of a uniform quality;
- (e) the number of plots should not exceed the number of plots held by a land-lord or tenant before the consolidation proceedings; and
- (f) such other principles as may be prescribed.

Scheme to
provide for
compen-
sation.

23. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any person who is allotted a holding of a market value less than that of his original holding and for the recovery of compensation from any person who is allotted a holding of a market value greater than that of his original holding.

(2) The amount of compensation shall be assessed by the Consolidation Officer, so far as practicable in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.

24. (1) The scheme prepared by the Consolidation Officer may provide for the distribution of land held under occupancy tenure between the tenants holding a right of occupancy and his landlord in such proportion as may be agreed upon between the parties.

Occupancy tenancies.

(2) When the scheme is confirmed under section 29, the land so allotted to the occupancy tenant and the land-lord shall, notwithstanding anything to the contrary contained in any enactment that may, for the time being, be in force in any part of the State of Himachal Pradesh, be held by each of them respectively in full right of ownership, and the right of occupancy in the land allotted to the land-lord shall be deemed to be extinguished.

25. (1) Notwithstanding anything contained in chapter IX of the Himachal Pradesh Land Revenue Act, 1954, as applicable to areas which formed part of Himachal Pradesh before the 1st day of November, 1966, except section 129 thereof or in chapter IX of Punjab Land Revenue Act, 1887, as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, except section 117 thereof, the scheme prepared by the Consolidation Officer may provide for partition of land between the joint owners of land or between joint tenants of a tenancy in which a right of occupancy subsists in accordance with the share of each owner or tenant in the land or tenancy, as the case may be, if—

Power to make provision in the scheme to partition joint lands and joint occupancy tenancies.

(a) such share is recorded under chapter IV of any of the Acts mentioned above or,

(b) the right of such owner or tenant to such share has been established by a decree which is still subsisting at the time of preparing the scheme, or

(c) a written acknowledgement of such right has been executed by all persons interested in the admission or denial thereof.

(2) When the scheme is confirmed under section 29, the land so partitioned shall, notwithstanding anything to the contrary contained in any law for the time being in force, be held by each such owner or tenant in full right of ownership or tenancy, as the case may be, and the rights of other joint owners or joint tenants, in the land shall be deemed to be extinguished.

26. (1) Whenever in preparing a scheme for the consolidation of holdings it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane, channel, path, drain, tank, pasture or other land reserved for common purposes with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of the individuals in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes shall be extinguished or, as the case may be, transferred to a new road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes laid down in the scheme of consolidation.

Amalgamation of public roads etc., within the scheme for consolidation of holdings.

(2) The declaration in sub-section (1) shall be published in the estate concerned in the prescribed manner along with the draft scheme referred to in section 28.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane,

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path, channel, drain, tank, pasture or other land reserved for common purposes or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be entertained.

(4) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Officer (Consolidation), together with the objections received, his recommendations thereon and a statement of the amount of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Officer (Consolidation), on the proposal and regarding the amount of compensation and the person by whom such compensation, if any, is payable, shall be final.

Land reserved for common purposes.

27. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer—

- (a) to direct that any land specifically assigned for any common purpose shall cease to be so assigned and to assign any other land in its place;
- (b) to direct that any land under the bed of a stream or torrent flowing within the State shall be assigned for any common purpose; and
- (c) if in any area under consolidation no land is reserved for any common purpose including extension of village *abadi*, or if the land so reserved is inadequate, to assign other land for such purpose.

Publication of draft scheme.

28. (1) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the estate or estates concerned. Any person likely to be affected by such scheme, or committee, appointed in accordance with the rules framed under the Act, shall within thirty days of the date of such publication, communicate in writing to the Consolidation Officer objections, if any, relating to the scheme. The Consolidation Officer shall after considering the objection, if any, received submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Officer (Consolidation).

(2) The Consolidation Officer shall also publish in the prescribed manner the scheme as amended by him.

Confirmation of scheme.

29. (1) If no objections are received under sub-section (1) of section 28 or within thirty days of the publication of the amended draft scheme published under sub-section (2) of section 28, as the case may be, the Settlement Officer (Consolidation) shall confirm the scheme submitted by the Consolidation Officer.

(2) If any objections are received to the amended draft scheme published under sub-section (2) of section 28, the Settlement Officer (Consolidation) shall, after taking objections into consideration, either confirm the scheme with or without modification or refuse to confirm it. In case of such refusal, the Settlement Officer (Consolidation) shall return the draft scheme with such directions as may be necessary to the Consolidation Officer for re-consideration and re-submission.

(3) On the confirmation of the scheme under sub-section (1) or (2), the scheme as confirmed shall be published in the prescribed manner in the estate or estates concerned.

30. (1) The Consolidation Officer shall after consultation with the land-owners and tenants of the estate or estates concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 29, and the boundaries of the holdings as demarcated shall be shown on the *shajra* which shall be published in the prescribed manner in the estate or estates concerned.

Repartition

(2) Any person aggrieved by the repartition may file a written objection within thirty days of the publication before the Consolidation Officer who shall after hearing the objector pass such orders, as he considers necessary, confirming or modifying the repartition.

(3) Any person aggrieved by the order of the Consolidation Officer under sub-section (2) may within one month of that order file an appeal before the Settlement Officer (Consolidation) who shall after hearing the appellant pass such orders as he considers proper.

(4) Any person aggrieved by the order of the Settlement Officer (Consolidation) under sub-section (3) may within sixty days of that order appeal to the Director of Consolidation of Holdings. The order of the Director of Consolidation of Holdings on such appeal and subject only to such order, the order of the Settlement Officer (Consolidation) under sub-section (3) or, if the order of the Consolidation Officer under sub-section (2) was not appealed against, such order of the Consolidation Officer, shall be final and shall not be liable to be called in question in any court.

31. (1) The Consolidation Officer shall cause to be prepared a new record-of-rights in accordance with the provisions contained in chapter IV of the Himachal Pradesh Land Revenue Act, 1954, as applicable to the areas which formed part of Himachal Pradesh immediately before the 1st day of November, 1966 or in Chapter IV of the Punjab Land Revenue Act, 1887 as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, as the case may be, in so far as these provisions may be applicable, for the areas under consolidation, giving effect to the repartition and orders in respect thereof made under the preceding section.

Preparation of record-of-rights.

(2) Such record-of-rights shall be deemed to have been prepared under section 35 of the Himachal Pradesh Land Revenue Act, 1954, as applicable to areas which formed part of Himachal Pradesh immediately before the 1st day of November, 1966 or section 34 of the Punjab Land Revenue Act, 1887, as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, as the case may be.

32. (1) If all the owners and tenants affected by the scheme of consolidation or, as the case may be, repartition, as finally confirmed agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

Right to possession of new holdings.

(2) If all the owners and tenants as aforesaid do not agree to enter into possession under sub-section (1), they shall be entitled to possession of the holdings and tenancies allotted to them from the commencement of the agricultural year next following the date of the publication of the scheme under sub-section (3) of section 29, or as the case may be, of the preparation of the new record-of-rights under sub-section (1) of section 31 and the Consolidation Officer shall, if necessary, put them in physical possession of the holding

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to which they are so entitled, and in doing so, may exercise the powers of a Revenue Officer under the Himachal Pradesh Land Revenue Act, 1954, or Punjab Land Revenue Act, 1887, as the case may be:

Provided that if there are standing crops on the holdings, physical possession of the holding shall be delivered after the aforesaid standing crops have been harvested.

(3) If any person from whom compensation is recoverable under the scheme fails within 15 days of the commencement of the agricultural year referred to in sub-section (2) to deposit such compensation in the prescribed manner, it shall be recoverable from him as an arrear of land revenue, and in such case the amount realised after deducting the expenses shall be paid to any person having interest in the holding.

33. As soon as the scheme comes into force, the management and control of all the lands assigned or reserved for common purposes of the village under section 27—

(a) in the case of the common purposes specified in clause (2) of section 2, in respect of which the management and control are to be exercised by the State Government shall vest in the State Government; and

(b) in the case of any other common purpose, shall vest in the Panchayat of that village; and the State Government or the Panchayat, as the case may be, shall be entitled to appropriate the income accruing therefrom for the benefit of the village community and the rights and interests of the owners of such lands shall stand modified and extinguished accordingly:

Provided that in the case of land assigned or reserved for the extension of village *abadi* or manure pits for the proprietors and non-proprietors of the village, such land shall vest in the proprietors to whom it is given under the scheme of consolidation.

34. As soon as the persons entitled to possession of holdings under this Act have entered into possession of holdings respectively allotted to them, the scheme shall be deemed to have come into force.

35. Subject to the provisions of section 24 and 25, and with effect from the date on which a tenure holder, in pursuance of the provisions of section 32 enters into possession of the plots allotted to him, his rights, title and interest in his original holdings shall be extinguished and he shall have the same rights, title and interest subject to modification if any, specified in the final consolidation scheme in the plots allotted to him thereunder.

36. (1) If the holding of a landowner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the Consolidation Officer subject to any rules that may be made under section 59, may have determined in preparing the scheme and thereupon the lessee, mortgagee, or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred.

(2) If the holding or tenancy to which a lease, mortgage or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrancer, as the case may be, shall, subject to the provision of section 45 be entitled to the payment of such compensation by the owner of the holding, or as the case may be, the tenant as the Consolidation Officer may determine.

Management
and control
of lands
for common
purposes to
vest in
Panchayats
or State
Government.

Coming into
force of
such scheme.

Rights after
consolidation.

Encumbrances
of
landowners
and tenants.

(3) Notwithstanding anything contained in section 32, the Consolidation Officer shall, if necessary, put any lessee or any mortgagee or other encumbrancer entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

37. If in pursuance of a scheme for consolidation of holdings any land which is evacuee property within the meaning of the Administration of Evacuee Property Act, 1950, is or has been exchanged for any other land which is not evacuee property, then such other land shall, as from the date of the coming into force of the scheme, be deemed to be evacuee property declared as such within the meaning of the said Act and the original evacuee land shall, as from such date be deemed to have ceased to be evacuee property.

Effect of consolidation of holdings on evacuee property.

38. Notwithstanding anything contained in the Himachal Pradesh Land Revenue Act, 1954, Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, the Punjab Land Revenue Act, 1887, the Punjab Tenancy Act, 1887 or any other enactment that may, for the time being, be in force in any part of the State of Himachal Pradesh, the rights and liabilities of landowners in their holdings and of tenants in their tenancies shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor the tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

Transfer of rights of land owners in holdings and of tenants in tenancies.

39. Notwithstanding anything contained in the Code of Civil Procedure 1908, or any other law for the time being in force, no decree for possession of land against a judgement-debtor, whose land has been included in a scheme for consolidation of holdings, shall be executed except after repartition and orders in respect thereof under section 30 and against land allotted to him in pursuance of such repartition and orders.

Decrees for possession of land to be executed against land allotted on repartition.

40. The Assistant Consolidation Officer shall, in the manner prescribed assess the cost of consolidation and distribute such cost between the persons affected by the order of consolidation, and recover it from them.

Costs.

41. Compensation under section 23 or costs under section 40 or any other sums payable under this Act shall be recoverable as an arrear of land revenue.

Recovery of Compensation or costs or other sums payable under this Act.

42. (1) After a notification under sub-section (1) of section 14 has been published and during the pendency of the consolidation proceedings, no landowner or tenant having a right of occupancy upon whom the scheme will be binding shall have power without the sanction of the Consolidation Officer to transfer or otherwise deal with any portion of his original holding or other tenancy so as to affect the rights of any other landowner or tenant having a right of occupancy therein under the scheme of consolidation.

Transfer of property during consolidation proceedings.

(2) After a notification under sub-section (1) of section 14 has been published and during the pendency of the consolidation proceedings no person, whose land has been notified under section 14 aforesaid and which is the subject matter of pending consolidation proceedings, shall cut any tree or demolish any building or structure or water course or water channel or well standing on such land, or remove or appropriate such trees or materials of such buildings, structure, water course, water channel or well or commit any act which is detrimental to or which may diminish the utility or

market value of any such land or tree, building, structure, water course, water channel or well.

Explanation.—The word 'person' mentioned in sub-section (2) includes his family member, servant, or agent or any person who commits the acts mentioned in sub-section (2) at the instigation or desire, express or implied, of such person.

(3) Whoever contravenes the provisions of sub-section (2) shall be liable to pay an amount which may extend upto twice the amount of loss or damage caused by such contravention.

(4) The quantum of loss or damage shall be assessed by the Settlement Officer (Consolidation) and an assessment so made shall be final.

(5) The amount assessed, if not paid within the period fixed by the Settlement Officer (Consolidation), shall become recoverable as an arrear of land revenue as provided for in section 41.

Suspension of partition proceedings during currency of consolidation proceedings.

No instrument necessary to effect transfer.

Apportionment of compensation or net value in case of dispute.

Power to vary or revoke scheme.

43. After notification under sub-section (1) of section 14 has been published no proceedings under chapter IX of the Himachal Pradesh Land Revenue Act, 1954, or the Punjab Land Revenue Act, 1887, as the case may be, in respect of any estate or a sub-division of an estate which will be effected by the scheme of consolidation shall be commenced, and such proceedings pending shall remain in abeyance during the pendency of the consolidation proceedings.

44. Notwithstanding anything contained in any law for the time being in force—

(a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings; and

(b) no instrument, if executed, shall require registration.

45. (1) The amount of compensation payable under this Act shall be assessed, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.

(2) Where there is dispute in respect of the apportionment of—

(a) the amount of compensation determined under sub-section (2) of section 23, or sub-section (4) of section 26;

(b) the net value realised under sub-section (3) of section 32;

(c) the total amount of compensation determined under sub-section (2) of section 36;

the Consolidation Officer shall refer the dispute to the decision of the civil court and deposit the amount of compensation or net value, as the case may be, in the court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may be, apply.

46. A scheme for the consolidation of holdings confirmed under this Act may, at any time be varied or revoked by the authority which confirms it subject to any order of the State Government, that may be made in relation thereto and a subsequent scheme may be prepared, published and confirmed in accordance with the provisions of this Act.

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CHAPTER IV

OTHER POWERS OF CONSOLIDATION OFFICERS

47. The Consolidation Officer and any person acting under his orders may, in the discharge of any duty under this Act, enter upon and survey land and erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for the proper performance of that duty.

Powers of officers to enter upon land for purposes of survey and demarcation.

48. If any person wilfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Consolidation Officer to pay such compensation not exceeding rupees fifty for each mark so destroyed, injured or removed, as may, in the opinion of that officer, be necessary to defray the expenses of restoring the same and of rewarding the person, if any, who gives information of the destruction, injury or removal.

Penalty for destruction, injury or removal of survey marks.

49. Every village officer of an estate shall be legally bound to furnish a Consolidation Officer, with information respecting the destruction or removal of, or any injury done, to any survey mark lawfully erected in the estate.

Report of destruction, removal or injury of survey marks.

50. (1) The Settlement Officer (Consolidation), Consolidation Officer and the Assistant Consolidation Officer shall have all such powers and rights and privileges as are vested in a civil court on the occasion of any action in respect of the following matters—

Powers to enforce attendance of witnesses in certain matters and application of Code of Civil Procedure.

- (a) the enforcing of the attendance of witnesses and examining them on oath, affirmation or otherwise and the issue of a commission or request to examine witness abroad;
- (b) compelling any one for the production of any document;
- (c) the punishing of persons guilty of contempt, and a summons signed by such officer may be substituted for and shall be equivalent to any formal process capable of being issued in any action by a civil court for enforcing the attendance of witnesses and compelling the production of any document.

(2) Subject to any conditions or restrictions that may be prescribed, the Settlement Officer (Consolidation), Consolidation Officer or Assistant Consolidation Officer may, by written order, require any person to produce such documents, papers and registers or to furnish such information as the Settlement Officer (Consolidation), Consolidation Officer or Assistant Consolidation Officer, as the case may be, may deem necessary for the proper exercise of his powers or the proper discharge of his duties under this Act.

(3) Every person required to produce any document, paper or register to furnish an information under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

(4) A proceeding before a Settlement Officer (Consolidation), Consolidation Officer or Assistant Consolidation Officer shall be deemed to be judicial proceeding within the meaning of section 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

(5) Unless otherwise expressly provided by or under this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings including appeal and application under this Act.

(6) The Assistant Consolidation Officer shall, for delivering possession to the person or persons to whom land has been allotted, have all the powers as regards contempt, resistance and the like as are exerciseable by a civil court in execution of a decree for delivering possession of immovable property.

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CHAPTER V

MISCELLANEOUS

Officers and
authorities.

51. (1) The State Government may for the purposes of this Act appoint—

- (1) Director of Consolidation;
- (2) Settlement Officer (Consolidation);
- (3) Consolidation Officer;
- (4) Assistant Consolidation Officer; and
- (5) such other persons as it thinks proper.

(2) The Director of Consolidation shall perform such duties and exercise such powers of supervision and superintendence over the work of the Settlement Officer (Consolidation), Consolidation Officer and Assistant Consolidation Officer as may be prescribed.

(3) The Settlement Officer (Consolidation), the Consolidation Officer and the Assistant Consolidation Officer shall exercise the powers and perform the duties conferred or imposed upon them by or under this Act or the rules framed thereunder.

Delegation
of Powers.

52. (1) The State Government may, by notification in the Official Gazette, delegate to any officer or authority any of the powers conferred upon it by this Act to be exercised subject to such restrictions and conditions as may be specified in the notification.

(2) The Director of Consolidation, the Consolidation Officer or the Settlement Officer (Consolidation) may, with the sanction of the State Government delegate any of his powers or functions under this Act to any person in the service of the State Government.

Arbitrator.

53. (1) Where any matter is, by or under this Act, directed to be referred to an arbitrator for determination, the arbitrator shall be appointed by the State Government from amongst Civil Judicial Officers of not less than three years' standing and in all other respects the matter shall be determined in accordance with the provisions of the Arbitration Act, 1940.

(2) The appointment of an arbitrator under sub-section (1) may be made either generally or in respect of any particular case or class of cases or in respect of any specified area or areas.

Power of
the State
Government to call
for proceedings.

54. The State Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed, scheme prepared or confirmed or repartition made by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such orders in reference thereto as it thinks fit:

Provided that no order, scheme or repartition shall be varied or reversed without giving the parties interested notice to appear and opportunity to be heard except in cases where the State Government is satisfied that the proceedings have been vitiated by unlawful consideration.

Appeal and
Revision.

55. No appeal and no application for review, reference or revision shall lie from any order passed under the provisions of this Act except as provided by or under this Act.

Correction
of clerical
errors.

56. Clerical or arithmetical mistakes in a scheme made, or an order passed by any officer, under this Act arising from any accidental slip or omission may at any time be corrected by the authority concerned either of its own motion or on the application of any of the parties.

57. No person shall institute any suit or other proceedings in any civil court with respect to any matter arising out of the consolidation proceedings or with respect to any other matter in regard to which a suit or application can be filed under the provisions of this Act.

Jurisdiction of civil court barred as regards matters arising under this Act.

58. No suit or other legal proceedings shall lie in respect of the exercise of any powers or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Public servants indemnified for acts done under this Act.

59. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.

Rule making power.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the manner of publication under sub-section (2) of section 14, sub-section (1) and (2) of section 28, sub-section (3) of section 29 and sub-section (1) of section 30;
- (b) the matters pertaining to the cancellation of the declaration regarding consolidation under section 16 and the consequences thereof;
- (c) the procedure and proceedings relating to the examination of revenue records under sub-section (1) of section 17;
- (d) the principle and procedure to be followed in the preparation of the scheme under section 22 and the classes of tenants whose holdings are to be consolidated and appointment of a committee in connection with the scheme;
- (e) the manner in which the area is to be reserved under section 27 in which it is to be dealt with and also in which the village abadi is to be given to proprietors and non-proprietors on payment of compensation or otherwise;
- (f) the procedure for entering into possession;
- (g) the manner in which the compensation recoverable from any person under sub-section (3) of section 32 shall be deposited by him;
- (h) the guidance of the Consolidation Officer in respect of the transfer of lease, mortgage, or other encumbrance under section 36;
- (i) the manner in which the area and assessment (including water rate, if any) of each re-constituted holding and tenancy shall be determined;
- (j) appointment and the procedure for reference to the Arbitrator;
- (k) the matters relating to the mode of service of notice or the production of document under this Act;
- (l) the manner of publication of any declaration or notification in the village;
- (m) the procedure to be followed in proceedings including applications, filing and disposal of objections and appeals under this Act, in cases for which no specific provision has been made therein;
- (n) the duties of any officer, or authority having jurisdiction under this Act, and the procedure to be followed by such officer and authority;
- (o) the time within which applications and appeals may be presented under this Act, in cases for which no specific provisions in that behalf has been made therein;
- (p) the application of the provisions of the Indian Limitation Act, 1963

- to applications, appeals and proceedings under this Act;
- (q) the delegation of powers conferred by this Act on the State Government or any other authority, officer or person;
- (r) the transfer of proceedings from one authority or officer to another;
- (s) limits within which the area of a tenure-holder can be adjusted in allotment by compensation or otherwise;
- (t) the appointment of guardians *ad litem* for minors;
- (u) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act; and
- (v) any other matter which is to be or may be prescribed.

(3) Rules made under this section shall be subject to the conditions of previous publication.

(4) Every rule made under this Act, shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification to the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

60. The Himachal Pradesh Consolidation of Holdings Act, 1953 and the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed, but notwithstanding such repeal, any order made, anything done, any action taken or any proceedings commenced in exercise of the powers conferred by or under the said Acts shall be deemed to have been made, issued, done, taken or commenced in the exercise of powers conferred by or under this Act.

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STATEMENT OF OBJECTS AND REASONS

There are two Acts relating to consolidation of holdings in operation in Himachal Pradesh viz., "The Himachal Pradesh Consolidation of Holdings Act, 1953" in the old areas and the "East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948" in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bringing about uniformity, it has been considered necessary to enact one unified law on the subject, for the whole of Himachal Pradesh. It is necessary to provide for the compulsory consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in the State of Himachal Pradesh and for the assignment or reservation of land for common purposes of the village. This Bill seeks to achieve these objects.

SIMLA:
The 6th September, 1971.

LAL CHAND PRARTHII,
Revenue Minister.

FINANCIAL MEMORANDUM

Since the Bill is mainly intended to unify the two existing Acts at present in force in the two different areas of Himachal Pradesh no increase or decrease in expenditure is involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 59 empowers the State Government to make rules in respect of matters enumerated therein. These rules shall as soon as may be after they are made be laid before the Legislative Assembly. The proposed delegation is normal in character.

Simla-4, the 7th September, 1971

No. 2-46/70-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Punjab Land Revenue (Himachal Pradesh Amendment) Bill, 1971 (Bill No. 13 of 1971) introduced in Himachal Pradesh Legislative Assembly on the 6th September, 1971 is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 13 of 1971.

**THE PUNJAB LAND REVENUE (HIMACHAL PRADESH
AMENDMENT) BILL, 1971**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Punjab Land Revenue Act, 1887 in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Punjab Land Revenue (Himachal Pradesh Amendment) Act, 1971.

Short title.

2. In section 4 of the Punjab Land Revenue Act, 1887, as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (hereinafter referred to as the principal Act),—

Amendment of section 4.

(i) in sub-section (1), for the words “for the record, recovery and administration of village-cesses”, the following shall be substituted, namely:—

“for the record, recovery, administration of village-cesses and for taking action against the encroachers under section 150”;

(ii) the existing explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

“*Explanation 2.*—For the purposes of this section and section 150 ‘land’ means land of all types (including forest land, ghasni land, cultivable or uncultivable waste land and khadeter land) whether assessed to land revenue or not, used or likely to be used for any purpose, whether agricultural or otherwise, and includes,—

(a) any building, whether constructed or under construction, and any part thereof; and

(b) the garden, ground and out-houses, if any, appurtenant to such building or part thereof”.

3. For section 150 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 150.

“150. *Prevention of encroachment on lands.*—(1) Where Government land or land which has been reserved for the site of a village or for the common purposes of the co-sharers therein has been encroached upon by any co-sharer or other person for any purpose including construction of a building or other structure thereon, then—

(a) the Revenue Officer may of his own motion or on the application of any other co-sharer eject the encroaching person (hereinafter in this section referred to as the encroacher) from such land and by order, proclaimed in the manner

11 of 1887
31 of 1966

mentioned in section 22, prohibit repetition of the encroachment therein:

Provided that no encroacher shall be ejected under this clause unless he has been given a reasonable opportunity of showing cause against the ejectment;

- (b) the Revenue Officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of such encroachment and may, by order, require the encroacher to pay the damages within such period and in such instalments as may be specified in the order;
- (c) if the encroacher has erected any building or other structure or has grown crops or planted trees on the encroached land, it shall be competent for the Revenue Officer, while ordering his ejectment, to dismantle such building or other structure and confiscate any produce or other material on such land and put the same in public auction and deposit the sale proceeds thereof into the Government Treasury; and
- (d) the Revenue Officer may impose upon the encroacher a fine up to five hundred rupees per bigha or part thereof in the case of first encroachment and, where the encroachment is repeated, a fine up to one thousand rupees per bigha or part thereof for each such subsequent encroachment.

(2) Any amount payable as damages under clause (b) of sub-section (1) or as fine under clause (d) of that sub-section may be recovered in the same manner as arrears of land revenue.

(3) No suit or other legal proceeding shall lie against the Revenue Officer or any person acting under this section in respect of anything in good faith done or purported to have been done under the provisions thereof or the rules made thereunder.

Explanation.—For the purposes of this section any person who holds land under a lease granted by the Government for a fixed term and continues to be in possession of the land beyond the expiry of the period of lease shall be deemed to be an encroacher unless such person gets the lease extended or renewed.”.

Amendment
of section
158.

4. In section 158 of the principal Act, in sub-section (2), after clause (xxiii), the following clause shall be inserted, namely:—

“(xxiv) the ejectment of any person under section 150 or the recovery of damages or fine payable under sub-section (1) of that section.”.

STATEMENT OF OBJECTS AND REASONS

The Punjab Land Revenue Act, 1887, is in force in the territory added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. Section 150 thereof as amended by the Punjab Land Revenue (Himachal Pradesh Amendment) Act, 1969, provides for taking action against a person who encroaches upon the Government land or common land. The word 'land' used in this section is not defined anywhere in the Act and as such difficulty is being experienced to eject a person who erects a building on the encroached land in the absence of such definition. Apart from this there is no provision for imposing penalty upon an encroacher. Such provisions in the Act are essential to stop encroachments upon such land. This Bill seeks to make the required provisions in the said Act.

SIMLA:
The 6th September 1971.

LAL CHAND PRARTHI,
Revenue Minister.

FINANCIAL MEMORANDUM

Sub-clauses (c) and (d) of clause 3 of the Bill are likely to yield income to the State Government on account of encroachments on Government land and fine to be imposed on defaulters to be recovered as arrears of land revenue which cannot be estimated.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 3 of the Bill read with section 155 of the principal Act empowers the Financial Commissioner to make rules for the purposes of the said clause and such rules shall have effect when sanctioned by the State Government.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(Revenue Department File No. 9-9/68-Rev. I)

The Governor having been informed of the subject matter of the Punjab Land Revenue (Himachal Pradesh Amendment) Bill, 1971, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly of Himachal Pradesh.

Simla-4, the 7th September, 1971

No. 2-45/70-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Himachal Pradesh Land Revenue (Amendment) Bill, 1971 (Bill No. 14 of 1971) introduced in the Himachal Pradesh Legislative Assembly on the 6th September, 1971, is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 14 of 1971.

THE HIMACHAL PRADESH LAND REVENUE (AMENDMENT) BILL, 1971

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

further to amend the Himachal Pradesh Land Revenue Act, 1954.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Land Revenue (Amendment) Act, 1971. Short title.

2. In section 5 of the Himachal Pradesh Land Revenue Act, 1954 (hereinafter referred to as the principal Act),— Amendment of section 5

(i) in sub-section (1), for the words “for the record, recovery and administration of village-cesses”, the following shall be substituted, namely:—

“for the record, recovery, administration of village-cesses and for taking action against the encroachers under section 163”;

(ii) the existing explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

“*Explanation 2.*—For the purposes of this section and section 163 ‘land’ means land of all types (including forest land, ghasni land, cultivable or uncultivable waste land and khadeter land) whether assessed to land revenue or not, used or likely to be used for any purpose, whether agricultural or otherwise, and includes,—

(a) any building, whether constructed or under construction, and any part thereof; and

(b) the garden, ground and out-houses, if any, appurtenant to such building or part thereof”.

3. For section 163 of the principal Act, the following section shall be substituted, namely:—

“163. *Prevention of encroachment on lands.*—(1) Where Government land or land which has been reserved for the site of a village or for the common purposes of the co-sharers therein has been encroached upon by any co-sharer or other person for any purpose including construction of a building or other structure thereon, then—

(a) the Revenue Officer may of his own motion or on the application of any other co-sharer eject the encroaching person (hereinafter in this section referred to as the encroacher) from such land and by order, proclaimed in the manner mentioned in section 23, prohibit repetition of the encroachment therein:

Provided that no encroacher shall be ejected under this clause unless he has been given a reasonable opportunity of showing cause against the ejection;

Substitution of new section for section 163.

- (b) the Revenue Officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of such encroachment and may, by order, require the encroacher to pay the damages within such period and in such instalments as may be specified in the order;
 - (c) if the encroacher has erected any building or other structure or has grown crops or planted trees on the encroached land, it shall be competent for the Revenue Officer, while ordering his ejectment, to dismantle such building or other structure and confiscate any produce or other material on such land and put the same in public auction and deposit the sale proceeds thereof into the Government Treasury; and
 - (d) the Revenue Officer may impose upon the encroacher a fine up to five hundred rupees per bigha or part thereof in the case of first encroachment and, where the encroachment is repeated, a fine up to one thousand rupees per bigha or part thereof for each such subsequent encroachment.
- (2) Any amount payable as damages under clause (b) of sub-section (1) or as fine under clause (d) of that sub-section may be recovered in the same manner as arrears of land revenue.
 - (3) No suit or other legal proceeding shall lie against the Revenue Officer or any person acting under this section in respect of anything in good faith done or purported to have been done under the provisions thereof or the rules made thereunder.

Explanation.—For the purposes of this section, any person who holds land under a lease granted by the Government for a fixed term and continues to be in possession of the land beyond the expiry of the period of lease shall be deemed to be an encroacher unless such person gets the lease extended or renewed”.

Amendment
of section
171.

- 4. In section 171 of the principal Act, in sub-section (2), after clause (xxiv), the following clause shall be inserted, namely:—
“(xxv) the ejectment of any person under section 163 or the recovery of damages or fine payable under sub-section (1) of that section.”.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Land Revenue Act, 1954 is in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966. Section 163 thereof provides for taking action against a person who encroaches upon the Government land or common land. The word 'land' used in this section is not defined anywhere in the Act and as such difficulty is being experienced to eject a person who erects a building on the encroached land in the absence of such definition. Apart from this there is no provision for imposing penalty upon an encroacher. Such provisions in the Act are essential to stop encroachments upon such land. This Bill seeks to make the required provisions in the said Act.

LAL CHAND PRARTHI,
Revenue Minister.

SIMLA:

The 6th September, 1971.

FINANCIAL MEMORANDUM

Sub-clauses (c) and (d) of clause 3 of the Bill are likely to yield income to the State Government on account of encroachments on Government land and fine to be imposed on defaulters to be recovered as arrears of land revenue which cannot be estimated.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 3 of the Bill read with section 168 of the principal Act empowers the Financial Commissioner to make rules for the purposes of the said clause and such rules shall have effect when sanctioned by the State Government.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(Revenue Department File No. 9-9/68-Rev-I.)

The Governor having been informed of the subject matter of the Himachal Pradesh Land Revenue (Amendment) Bill, 1971, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly of Himachal Pradesh.

Simla-4, the 7th September, 1971

No. 1-26/70-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Himachal Pradesh Livestock Improvement (Amendment) Bill, 1971 (Bill No. 15 of 1971) introduced in the Himachal Pradesh Legislative Assembly on the 6th September, 1971 is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 15 of 1971.

**THE HIMACHAL PRADESH LIVESTOCK IMPROVEMENT
(AMENDMENT) BILL, 1971**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to amend the Himachal Pradesh Livestock Improvement Act, 1968.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Livestock Improvement (Amendment) Act, 1971.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. In section 7 of the Himachal Pradesh Livestock Improvement Act, 1968,—

Amendment
of
section 7.

(a) for the words "a variety" the words "an approved variety" shall be substituted;

(b) the word "or" at the end of clause (b) shall be omitted; and

(c) clause (c) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

For the improvement of livestock, it is necessary that the bull should be of an approved variety. It is, therefore, considered necessary to substitute the words "an approved variety" for the words "a variety". After the proposed amendment clause (c) and the words "or" occurring at the end of clause (b) of section 7 of the Himachal Pradesh Livestock Improvement Act, 1968, become superfluous and require to be omitted. The Bill seeks to achieve the aforesaid object.

SIMLA :

The 6th September, 1971.

SUKH RAM,

Development Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Simla-4, the 7th September, 1971

In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Bill, 1971 (Bill No. 16 of 1971) introduced in the Himachal Pradesh Legislative Assembly on the 6th September, 1971 is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 16 of 1971.

**THE HIMACHAL PRADESH (TRANSFERRED TERRITORY)
TENANTS (PROTECTION OF RIGHTS) BILL, 1971**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to protect the tenants in the transferred territory in the State of Himachal Pradesh against eviction from their tenancies and for the matters incidental or ancillary thereto.

BE it enacted by the Legislative Assembly of the State of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1971.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the transferred territory in the State of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Transferred territory" means the territory added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966; and

(b) all other words and expressions used in this Act and not defined in it shall have the same meanings as assigned to them in,—

(i) The Pepsu Tenancy and Agricultural Lands Act, 1955, in relation to the area in which that Act is in force; or

(ii) The Punjab Tenancy Act, 1887, in relation to the area in which that Act is in force.

3. Notwithstanding anything contained in the Pepsu Tenancy and Agricultural Lands Act, 1955 or the Punjab Security of Land Tenures Act, 1953 or the Punjab Tenancy Act, 1887 or any other law or custom for the time being in force or in any contract, from the commencement of this Act,—

Stay of
eviction
proceedings.

(a) no suit, proceedings in execution of decrees or orders, or other proceedings for eviction of a tenant from his tenancy or any part thereof shall lie in any court or before any Revenue Officer for a period of one year; and

(b) all suits, proceedings in execution of decrees or orders and other proceedings for such eviction pending in a court or before a Revenue Officer at the commencement of this Act, shall, for a period of one year, from such commencement, be stayed.

13 of 1966

13 of 1955

16 of 1887

13 of 1955
10 of 1953
16 of 1887

Suits or other proceedings for eviction due to non-payment of rent to be treated as suits or proceedings for recovery of arrears of rent.

4. Notwithstanding anything contained in section 3, if at the commencement of this Act, any suit or other proceedings for eviction of a tenant for non-payment of arrears of rent is pending in a court or before a Revenue Officer, the court or a Revenue Officer as the case may be, may, on an application made to it or him within sixty days from the commencement of this Act by the landowner treat such suit or other proceedings as a suit or other proceedings for recovery of arrears of rent and dispose it of accordingly.



Repeal and savings.

5. (1) The Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968 is hereby repealed.

13 of 1968

(2) The repeal by this Act shall not affect anything done or any action taken in the exercise of any power conferred by or under the repealed Act or any events which have ensued from the operation of the repealed Act.

STATEMENT OF OBJECTS AND REASONS

Consequent upon the merger of some areas of the composite Punjab into Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, there was a growing tendency amongst the land owners in the merged areas to eject tenants from the land under their tenancies. With a view to protect the tenants in the merged areas against eviction from their tenancies the legislative measures were taken by passing the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968, but under sub-section (2) of section 3 of the said Act, a court or a Revenue Officer can still order the eviction of a tenant from his tenancy or any part thereof on the grounds mentioned thereunder. Full protection to the tenants against ejection by the land owner is essential in the interest of security of their tenure till some comprehensive legislation on the subject is made. This Bill seeks to achieve the aforesaid object.

SMLA:

The 6th September, 1971.

[LAL CHAND PRARTHI,

Revenue Minister,

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Simla-4, the 7th September, 1971

No. 1-29/71-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Punjab Tenancy (Himachal Pradesh Amendment) Bill, 1971 (Bill No. 17 of 1971) introduced in the Himachal Pradesh Legislative Assembly on the 6th September, 1971 is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 17 of 1971.

**THE PUNJAB TENANCY (HIMACHAL PRADESH AMENDMENT)
BILL, 1971**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Punjab Tenancy Act, 1887, in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Punjab Tenancy (Himachal Pradesh Amendment) Act, 1971.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. After clause (19) of section 4 of the Punjab Tenancy Act, 1887, (hereinafter referred to as the principal Act), the following clause shall be added, namely:—

Amendment
of section 4.

“(20) ‘kismi tenant’ means a tenant in Kangra District who is so classified and recorded in record-of-rights of the estate in which the tenancy is situate and includes an *opahu*, a *basnu*, a *basiku opahu*, an *adheo*, a *kirsan*, a *hal chuk*, a *bhatri*, an *opra*, a *dudharchar opahu* and a *metayer* tenant.”.

3. In sub-section (1) of section 5 of the principal Act—

Amendment
of section 5.

(i) at the end of clause (d), the word “or” shall be inserted; and

(ii) after clause (d), the following clause shall be added, namely:—

“who has been occupying the land as *kismi* tenant in Kangra District.”.

of 1887

STATEMENT OF OBJECTS AND REASONS

In Kangra District of Himachal Pradesh, there are tenants who are generally known as 'Kismi tenants' or 'Basiku Opahu' etc. They have been cultivating their tenancy land from generation to generation being hereditary tenants. Such tenants cannot make proper improvement on the land for want of security of tenure. With a view to providing such tenants a better legal status, and security of tenure, it is essential that these be made eligible to acquire occupancy rights under section 5 of the said Act. This Bill seeks to achieve the above object.

SIMLA:
The 6th September, 1971.

LAL CHAND PRARTHII,
Revenue Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Simla-4, the 7th September, 1971

No. 1-31/71-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Himachal Pradesh General Clauses (Amendment) Bill, 1971 (Bill No. 18 of 1971) introduced in the Himachal Pradesh Legislative Assembly on the 6th September, 1971 is hereby published in the Himachal Pradesh Government Gazette.

R. C. SHARMA,
Under Secretary.

Bill No. 18 of 1971.

THE HIMACHAL PRADESH GENERAL CLAUSES (AMENDMENT) BILL, 1971

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the *Himachal Pradesh General Clauses Act, 1968* (Act No. 16 of 1969).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh General Clauses (Amendment) Act, 1971.

Short title
and com-
mencement.

(2) It shall come into force at once.

16 of 1969

2. In section 2 of the Himachal Pradesh General Clauses Act, 1968 (hereinafter referred to as the principal Act),—

Amendment
of section 2.

(i) clause (3) shall be omitted;

(ii) for clause (9), the following clause shall be substituted, namely:—

“(9) ‘Commissioner’ shall mean the Divisional Commissioner, Himachal Pradesh;”

(iii) in clause (17), the words “for the time being” occurring at the end shall be omitted;

(iv) in clause (21), after the words and coma “Legislative Assembly of Himachal Pradesh,” the words “and shall include an Act passed by the Legislative Assembly of the Part C State of Himachal Pradesh or by the Legislative Assembly of Union territory of Himachal Pradesh constituted under the Government of Union Territories Act, 1963” shall be inserted;

20 of 1963

(v) clause 24 shall be omitted;

(vi) in clause (37), after words “Union territory”, the words “specified in the First Schedule to the Constitution” shall be inserted;

(vii) in clause (39), before the words “Himachal Pradesh”, the word “the” shall be inserted;

(viii) for clause (40), the following clause shall be substituted, namely:—

“(40) “scheduled district” shall mean a scheduled district as defined in the Scheduled Districts Act, 1874;”

14 of 1874

(ix) in clause (41), before the words “Himachal Pradesh Act”, the word “the” shall be inserted;

(x) clauses (45) and (46) shall be omitted.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

Substitution
of section 3.

“3. *Coming into operation of enactments.*—Where any Himachal Pradesh Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which

the assent thereto of the Governor or the President of India, as the case may require, is first published in the Official Gazette."

Amendment of section 11. 4. In section 11 of the principal Act, for the words "any goods of merchandise", the words "any goods or merchandise" shall be substituted.

Amendment of section 13. 5. In section 13 of the principal Act, after the words "power is conferred", the words "on the State Government" shall be inserted.

Amendment of section 15. 6. In section 15 of the principal Act, the words "by it" occurring in the last line shall be omitted.

Amendment of section 22. 7. In sub-section (2) of section 22 of the principal Act, the word "concerned" occurring in the last line shall be omitted.

Amendment of section 24. 8. In section 24 of the principal Act, the word "the" before the words "Criminal Procedure" shall be omitted.

Amendment of section 27. 9. In section 27 of the principal Act, for the words "In any Himachal Pradesh Act", the words "In this Act and in any other Himachal Pradesh Act" shall be substituted.

Insertion of new section 27-A. 10. After section 27 of the principal Act, the following section shall be inserted, namely:—

"27-A. *Application of Act to Ordinances and Regulations.*—(1) The provisions of this Act shall apply in relation to any Ordinance promulgated by the Governor of Himachal Pradesh under Article 213 of the Constitution or any Regulation made by the Governor under paragraph 5 of the Fifth Schedule to the Constitution, as they apply in relation to Himachal Pradesh Acts made by the State Legislature.

(2) The provisions of sections 4 and 5 of this Act shall apply on the expiry, withdrawal or repeal of any Ordinance promulgated by the Governor of Himachal Pradesh under Article 213 of the Constitution, as if such Ordinance had been an enactment repealed by a Himachal Pradesh Act".

Amendment of section 28. 11. (1) In section 28 ":", appearing after the words "hereby repealed" shall be substituted by ".".

(2) Proviso to section 28 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh General Clauses Act, 1968 (Act No. 16 of 1969) suffers from the following defects:—

1. *Section 2.*—(i) Clause (3) defines “Administrator”, clause (24) defines “Lieutenant Governor”, clause (45) defines “State” as meaning the Union territory of Himachal Pradesh and clause (46) defines “State Government” as Government of Himachal Pradesh. On the conversion of Himachal Pradesh into a full-fledged State, the aforesaid clauses have become obsolete and may be omitted.
- (ii) *Clause (17).*—The words “for the time being” are unnecessary and may be deleted.
- (iii) *Clause (21).*—Though it can be argued that the expression “Himachal Pradesh Act” as defined in this clause includes an Act passed by the Legislative Assembly constituted under the Government of Part C States Act and the Legislative Assembly constituted under the Government of Union Territories Act, 1963, yet the matter is not free from doubt and difficult questions might arise particularly with regard to the application of the provisions of sections 4 to 7 of the Act. The safer course appears to be to make it clear in the definition that an Act passed by the Legislative Assembly of the Part C State of Himachal Pradesh or the Legislative Assembly of Union territory of Himachal Pradesh is also included therein.
- (iv) *Clause (37).*—The intention is to refer to the States and the Union territories specified in the First Schedule to the Constitution. This may be made clear by inserting the words “specified in the First Schedule to the Constitution” after the words “Union territory”.
- (v) *Clause (39).*—The word “the ” may be inserted before the words “Himachal Pradesh”.
- (vi) *Clause (40).*—It is not necessary to put the words “scheduled district”, where they occur for the second time, within inverted commas.
- (vii) *Clause (41).*—The word “the” may be inserted before the words “Himachal Pradesh Act”.
2. *Section 3.*—(i) *Clause (a).*—This clause provides that in the case of Himachal Pradesh Act made by the Legislative Assembly of Himachal Pradesh it shall come into operation on the day on which the assent thereto of the President of India is first published in the Official Gazette. The Himachal Pradesh is a full fledged State now and assent to the Bills passed by the Himachal Pradesh Legislative Assembly is also to be given by the Governor besides the President. This clause, therefore, needs to be amended accordingly.
- (ii) *Clauses (b) and (c)* refer to Acts which have already come in force in Himachal Pradesh and, therefore, appear to be unnecessary.
- (iii) *Clause (d).*—This clause refers to Acts extended by notifications of the Government of India. The dates of commencement of such Acts will depend upon the terms of the notification issued by the Government of India. Therefore, a provision for the purpose does not appear necessary in the Act. This clause may, therefore, be omitted.

- (iv) The last portion of section 3 provides that the date of the first publication shall be printed either above or below the title of the Act and shall form part of every such Act. This provision does not relate to interpretation and, therefore, need not find a place in the Act.
3. *Section 11.*—For “any goods of merchandise”, the words “any goods or merchandise” may be substituted.
 4. *Section 13.*—After the word “power is conferred”, the words “on the State Government” shall be inserted.
 5. *Section 15.*—The words “by it” in the last line may be omitted.
 6. *Section 22.*—Clause (2) refers to “Government concerned”. The word “concerned” appears to be unnecessary.
 7. *Section 24.*—The word “the” before the words “Criminal Procedure” may be omitted.
 8. *Section 27.*—In this Act also, there are citations of portions of other enactments and, therefore, it appears that the provisions of clause (2) of section 2 should be made applicable to the interpretation of the Act. For this purpose, the words “In this Act and in any other Himachal Pradesh Act” may be substituted for the words “In any Himachal Pradesh Act” occurring at the beginning of this section.
 9. Himachal Pradesh is a full-fledged State now and the Governor of this State is competent to promulgate any Ordinance under Article 213 of the Constitution and make any regulation under paragraph 5 of the Fifth Schedule to the Constitution. The principal Act is to be made applicable to the Ordinances and Regulations. Accordingly new section 27-A is being inserted in the Act.
 10. *Section 28.*—The Act contains provisions only for the interpretation of Acts and the question of taking any action under the Act does not appear to arise. The proviso to section 28, therefore, appears to be unnecessary.

It has been considered necessary to remove the defects mentioned above. The Bill seeks to achieve the aforesaid object.

SIMLA:
The 6th September, 1971.

KARAM SINGH,
Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Simla-4, the 7th September, 1971

No. 1-30/71-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Himachal Pradesh Legislative Assembly (Allowances of Members) (Amendment) Bill, 1971 (Bill No. 19 of 1971) introduced in the Himachal Pradesh Legislative Assembly on the 6th September, 1971 is hereby published in the Himachal Pradesh Government Gazette.

R. C. SHARMA,
Under Secretary.

**THE HIMACHAL PRADESH LEGISLATIVE ASSEMBLY
(ALLOWANCES OF MEMBERS) (AMENDMENT) BILL, 1971**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Himachal Pradesh Legislative Assembly (Allowances of Members) Act, 1971.

BE it enacted by the Legislative Assembly of the Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Legislative Assembly (Allowances of Members) (Amendment) Act, 1971.

Short title and commencement.

(2) It shall come into force at once.

2. For sub-section (2) of section 1 of the Himachal Pradesh Legislative Assembly (Allowances of Members) Act, 1971 (hereinafter called the principal Act), the following sub-section shall be substituted, namely:—

Substitution of sub-section (2) of section 1.

“(2) It shall be deemed to have come into force with effect from the 25th January, 1971 but section 4-A shall be deemed to have come into force on the 1st July, 1963.”

3. After section 4 of the principal Act, the following new section 4-A shall be inserted, namely:—

Insertion of new section 4-A.

“4-A. *Regularisation of travelling allowance with effect from 1st July, 1963 to 24th January, 1971.*—(1) There shall be paid travelling allowance to each member in respect of every journey performed by road for the purpose of attending session of the Assembly or a meeting of a committee or for the purpose of attending to any other business connected with his duties as a member, from his usual place of residence to the place where the session or the meeting is to be held or the other business is to be transacted and for the return journey from [such place to his usual place of residence at the rate of fifty-five paise per kilometre from the 1st day of July, 1963 to twenty-fourth day of January, 1971.

(2) No member shall be entitled to claim any arrears with respect to the period mentioned in sub-section (1).”

STATEMENT OF OBJECTS AND REASONS

Under section 3 of the Government of Union Territories Act, 1963, a Legislative Assembly was established in Himachal Pradesh with effect from 1st July, 1963. Under section 4 of the Salaries and Allowances of Members of the Legislative Assembly (Himachal Pradesh) Act, 1963, a member of the Legislative Assembly was to be paid such amount as T.A. as would be admissible in respect of journeys on tour to a First Grade Officer. No certificate was prescribed in the Salaries and Allowances of Members of the Legislative Assembly (Himachal Pradesh) Act, 1963, to indicate the mode of journey. Reference was made to the Government of India, Ministry of Home Affairs and they vide their letter No. F.10/3/64-SR(R), dated the 10th March, 1964, stated that members of the Himachal Pradesh Legislative Assembly are required to furnish only those certificates as have been prescribed in the Salaries and Allowances of Members of the Legislative Assembly (Himachal Pradesh) Act, 1963, and there is no need for furnishing the certificate prescribed under Supplementary Rule 46. In the year 1970, the Deputy Accountant General, Himachal Pradesh and Chandigarh, raised an objection and again a reference was made to the Government of India. The Government of India, Ministry of Home Affairs, changed the previous advice in the year 1971 given to us seven years ago and stated that it was necessary to have a certificate from each member in the terms of S.R. 46. In order to meet the audit objection it is necessary to regularise all payments made to the members of the Legislative Assembly from 1st July, 1963 to 24th January, 1971. This Bill seeks to achieve the aforesaid object.

SIMLA:

The 6th September, 1971.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

Clause 4-A provides for regularisation of the payment made on account of the mileage allowance paid to the members of the Legislative Assembly in respect of journeys performed for purposes specified therein during the period from the 1st July, 1963 to the 24th January, 1971 at the rate admissible to First Grade Officer travelling in his own car or in a fully hired taxi. The precise amount involved is not capable of being figured out but the regularisation of the payment of an approximate amount of rupees five lakhs is involved. No arrears are to be paid.

MEMORANDUM ON DELEGATED LEGISLATION

Nil

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE
207 OF THE CONSTITUTION OF INDIA

(Noting para No. 35 of the General Administration Department File No. 25-24/63—GA-C).

The Governor having been informed of the subject matter of the Himachal Pradesh Legislative Assembly (Allowances of Members) (Amendment) Bill, 1971, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly of Himachal Pradesh.